BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, DC 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92

REPLY COMMENTS OF MID-RIVERS TELEPHONE COOPERATIVE, INC.,
AND CABLE & COMMUNICATIONS CORPORATION,
D/B/A MID-RIVERS COMMUNICATIONS

May 20, 2011

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I. EXECUTIVE SUMMARY

Mid-Rivers Communications, a rural telecommunications cooperative serving nearly 30,000 square miles of Eastern and Central Montana, hereby submits for the Federal Communications Commission's (FCC's) consideration Reply Comments with regard to proposed Universal Service Fund (USF) and Intercarrier Compensation (ICC) reforms in the above-referenced Dockets.

In this Notice of Proposed Rulemaking (NRPM), the FCC lays out nearly 300 pages of very **complex and drastic overhauls**. Such complex proposals, lacking in key detail, and coupled with existing USF caps and the uncertainty and lack of predictability they generate, continue to be a major hindering factor to our ability to invest in our voice, broadband, and wireless networks. This approach is **very counter-productive to the original goals of the National Broadband Plan**, which centered on stimulating the economy and job creation through accelerated broadband deployment. As pointed out by multiple commenters in this proceeding, the level of detail still missing from these proposals on critical issues makes it nearly impossible to determine the ultimate long term impacts of these radical changes to rural telecommunications companies and our customers. However, it is clear that **one major impact may be the shift of support for rural networks onto the backs of rural end-user customers,** and the **abandonment of many of the objectives of the 1996 Act including the basic principle of universal service.**

Many of the reforms proposed in the NPRM would reverse the progress Mid-Rivers has made as a **Rural Local Exchange Carrier (RLEC), a Competitive Local Exchange Carrier (CLEC) and a wireless Competitive Eligible Telecommunications Carrier (CETC)** in building out quality voice, broadband and wireless services to unserved and underserved areas of rural Montana, and the reforms could effectively halt any future ability we may have to continue building out to remaining unserved areas. The NPRM as proposed would, at a minimum:

- **Phase out all CETC (wireline and wireless) USF support** we receive today after five years, with no apparent replacement for that support.

- **Potentially zero out access charge revenues** critical to our RLEC and CLEC revenue streams, with no apparent replacement for the CLEC access revenue, and an unclear transition to the Connect America Fund (CAF) for RLEC access revenue recovery.
- **Transition all existing USF support dollars into an unknown system** of "market-based" support for undetermined broadband speeds in undefined geographic areas.

The NPRM also effectively ignores the issue of reforming the contribution side of the USF equation, opting instead for a self-imposed cap on the size of the Fund at current levels. The collective impact of these plans will be the shifting of high cost support away from the nation's highest-cost rural areas and Rate of Return carriers – where it is needed most – to the Price Cap carriers in less rural areas where there is potential for the "biggest bang for the buck."

Mid-Rivers, along with an overwhelming number of the other respondents in this proceeding, believes that a more straightforward strategy that **builds on the past success of the universal service program** will allow the nation to accomplish its broadband policy goals much more quickly and efficiently than a complete overhaul utilizing untried and unproven approaches. Universal Service is a unique example of a public-private partnership that has WORKED to bring rural areas access to comparable voice services at comparable rates to those available in urban areas, and **it is a framework that can succeed again in a broadband network environment with the right basic modifications to directly address the few real concerns** with the existing USF and ICC system:

1. **Modernization of the USF Contribution methodology** to align with a broadband network environment, including expansion of the contribution base to all types of service, application and content providers that profit and benefit from the network.
2. **Replacement of the Identical Support rule with cost-based support** for rural high-cost competitive and wireless carriers, including the availability of **Interim Cap waivers** for carriers demonstrating a cost-based need for support levels beyond capped amounts.
3. **Implementation of clear and expedient Access Charge Transition and Revenue Recovery mechanisms for ALL rural carriers – Incumbent or Competitive (CLEC) –** that rely on access charges for cost recovery today.
4. Adoption of a Universal Service policy that provides for **complementary mobile and fixed broadband services** and recognizes the consumers' need for both.

As a carrier serving some of the nation's most rural areas, utilizing a wide range of both wireline and wireless technologies to do so in the most efficient manner possible, **the retention of universal service principles** is a key concern for Mid-Rivers and our rural customers as support is transitioned to a broadband platform. USF and ICC reforms must protect the existing investments and allow for future broadband build-out by **ALL rural carriers – RLECs, CLECs, and Wireless Competitive Eligible Telecommunications Carriers (CETCs) –** that have demonstrated a commitment to serving rural America. As stated by the Utah Public Service Commission in their initial NPRM comments, the FCC with these drastic proposals **"ignores the fact that rural telecommunications companies have made investments based on the reasonable expectation that federal and state support would continue at reasonable levels,"**[1] which is equally true for all rural providers in High Cost areas – RLECs, CLECs and wireless CETCs.

While Mid-Rivers is in agreement with many of the comments provided by the Rural Associations (NECA, NTCA, *et al*) in their RLEC comments,[2] we also feel it is critical at this point in the proceeding to **recognize the impact of these proposals on ALL rural consumers,** regardless of the regulatory classification of their service provider. To truly meet the needs of rural consumers, the FCC and the rural industry must not ignore **the contribution of rural CLECs and rural wireless CETCs to the provision of essential voice and broadband services** in some of the nation's most rural areas. Just as Mid-Rivers and other Cooperatives were created over 50 years ago to fill a need not met by nationwide telephone providers, we have utilized every means available under the existing USF and ICC rules and regulations **to fill gaps in service left by large wireline and wireless providers**. The continued provision of quality voice and broadband services and the build-out of facilities to remaining unserved areas across large regions of rural America hinges upon **the ability of ALL types of <u>rural</u> high-cost carriers to recover our costs and be afforded a reasonable level of predictability and sustainability of support.** While our comments will discuss some critical concerns with the overall NPRM, we will focus on the effects on rural customers served by CLECs and CETCs that stand to experience a substantial reduction in services should these reforms be implemented as proposed.

[1] Comments of the Utah Public Service Commission and Utah Division of Public Utilities in NPRM referenced at *1*.
[2] Comments of the National Exchange Carrier Association, Inc.,; National Telecommunications Cooperative Association; *et al* in NPRM referenced at 1.

II. BACKGROUND ON MID-RIVERS COMMUNICATIONS

Mid-Rivers Communications provides telephone, broadband, wireless, and other telecommunications services to a vast geographic area in Eastern and Central Montana. We serve 26 ILEC exchanges covering approximately **30,000 square miles,** with an average population density of approximately **0.8 people per square mile**. Following the enactment of the Communications Act of 1996, which for the first time allowed competitive providers to build out in and receive support for the provision of telecommunications services, Mid-Rivers responded to the needs of multiple Montana communities **previously underserved** by the Incumbent Regional Bell Operating Company (RBOC) and became a **facilities-based CLEC** in seven Montana RBOC exchanges. Mid-Rivers now serves as much as 98% of the telephone subscribers in some of these exchanges. We provided broadband services in many of these areas before it was available from the Incumbent provider, and **today we are the ONLY wireline broadband provider in four of these seven exchanges**. The Montana Public Service Commission (MPSC) has granted Mid-Rivers Eligible Telecommunications Carrier (ETC) status in all seven of these CLEC exchanges, which allows us to receive USF support and also imparts a range of on-going service quality, exchange build-out, and associated ETC reporting requirements.

Our subsidiary company Cable & Communications Corporation (C&CC) was granted Wireless ETC status by the MPSC in 2004. Today the Mid-Rivers wireless network covers approximately **10,000 square miles** of some of the most remote, sparsely-populated areas of the state, **the majority of which was previously unserved by any wireless signal** and includes important state highway routes, oil and gas fields, and agricultural production areas. Throughout much of this area we provide the only wireless signal available for emergency 911 access.

Mid-Rivers Communications currently serves about 25,000 telephone access lines, 15,000 high-speed Internet subscribers, and 4,000 cellular phones. We operate over 10,000 route miles of telephone line and 1,500 miles of fiber optic cable. Mid-Rivers has invested substantially in telecommunications plant, but the plant we have in service today is **almost fully depreciated**, with much of the very rural portion of these facilities being incapable of carrying a broadband signal due to the distances involved with serving a large rural geographic area. USF and ICC currently make up a significant portion of Mid-Rivers' RLEC revenues.

III. COMMENTS ON INTERCARRIER COMPENSATION AND HIGH COST USF REFORM PROPOSALS

A. Impacts on Rural Telecommunications Consumers

The FCC proposes in this NPRM nearly 300 pages of **complex and drastic changes** to two of the cornerstones of rural telecommunications, Universal Service and Intercarrier Compensation. Though the NPRM details a number of specific short and long term proposals, **the details that are NOT provided are just as concerning**. There is no path for wireless carriers providing vital public safety services in rural areas to receive on-going support for their networks beyond the five-year phase out of CETC support. Threshold broadband speeds that may be required for CAF support are yet to be defined, as is the definition for proposed voice and broadband "benchmark" rates and how those rates may be calculated. **Such critical uncertainties make it extremely difficult to determine exactly how the FCC's USF and ICC transition plan will ultimately affect the monthly rates of and the continued provision of service to rural consumers. The FCC's final decisions on these many significant details will drastically affect the overall outcome of their plan and its ultimate impact on rural America.**

The NPRM proposals effectively abandon a universal service strategy that has succeeded in deploying voice services throughout rural America, opting for untried and unproven strategies founded not on the goal of broadband for all but rather the principle of getting the most "bang for the buck." Consulting firm John Staurulakis, Inc. (JSI) stated well the likely outcome of such a strategy in their initial NPRM comments: "These reforms are **likely to reverse the gains in universal service made in rural areas of the nation and will chill private investment in the highest of the high-cost areas of the country**."[3] While the lack of critical details in the FCC's plan makes it difficult to estimate all the ultimate long-term impacts of these drastic overhauls specific to the rural consumers served by our company, it is clear that the intent is to **shift a larger portion of the cost of supporting rural networks to rural end-users**.

From an RLEC perspective, the NPRM impact on Mid-Rivers Communications would align closely with the impact analysis presented by Moss Adams LLP in their initial NPRM comments

[3] Comments of John Staurulakis, Inc. ("JSI") in NPRM referenced at *1*, submitted April 18, 2011, Page iii.

(Mid-Rivers is a Moss Adams client). Their analysis details the "significant financial harm" that would be done to rural telecommunications carriers providing universal service in rural America, including the estimated subscriber rate increases that would be necessary to make up for lost USF and ICC revenues.

While the harmful effects on our RLEC operations are extremely concerning, we feel these concerns have been covered sufficiently in the comments of other Montana carriers and our rural industry organizations and will therefore not be fully addressed in our Reply Comments. It should be noted, however, that **many if not all of the same concepts that apply to the cost recovery needs of RLECs can be applied in an identical fashion to the needs of <u>rural</u> CLECs and CETCs serving customers in high-cost areas**. If structured correctly, a modernized Universal Service program can allow us to put the needs of the rural consumer first, fully funding ubiquitous broadband deployment with both the speeds and mobility vital to economic recovery and job creation in rural America.

As noted earlier in our comments, Mid-Rivers is not only an RLEC, but also a wireline CLEC and a wireless CETC, serving the largest geographic area of any telephone cooperative in the Continental U.S. USF and ICC are critical revenue streams for our very rural RLEC, CLEC and CETC operations. In addition to the very concerning RLEC impacts, it is clear that certain short term NPRM proposals will have a **very detrimental effect on our ability to continue building out telecommunications infrastructure in our seven Montana CLEC exchanges as required by our on-going ETC requirements,** and on the **continued availability and expansion of wireless service (broadband and basic voice) across a very large geographic area of Eastern and Central Montana**.

Today Mid-Rivers is the ONLY wireline broadband provider in four of our seven wireline CLEC exchanges. The MPSC granted Mid-Rivers Eligible Telecommunications Carrier (ETC) status in these CLEC exchanges, which allows us to receive USF support but also imparts a wide range of on-going service quality, exchange build-out, and associated ETC reporting requirements. **The NPRM as proposed would result in the loss of 20% per year of the CLEC USF support we receive today, ending in the complete elimination of this support after five years.** Our wireline CLEC USF support amounted to **less than $850,000 in 2010.** This support is a fraction of a fraction compared to CETC support received by large nationwide carriers, yet these dollars are critical to our operations and every dollar received is reinvested in the network. This support is used to address our ETC obligation of extending services further out into the rural areas of these exchanges, where the provision of improved services is even more critical.

It should also be noted that while the NPRM specifically targets the phase out of the High Cost Model Support (HCMS) received by our CLEC operation, it does not address the issue of the HCMS received by our competitor in these same exchanges. This anomaly is discussed by John Staurulakis, Inc. (JSI), in their Initial Comments, where they state that "Notably, while the Commission mentions the High Cost Model Support ("HCMS") program – with funds received by a limited set of the nation's non-rural carriers – it does not propose any near-term reforms of the HCMS…the FCC didn't explain why the poster child of concentrated support – the HCMS program – was immune to near-term reforms."[4] An assumedly unintended consequence of this situation for our company is that **not only would we lose our current High Cost support** over five years in the seven exchanges where we operate as a CLEC, **but our non-rural RBOC competitor would *keep* their full support**, despite the fact that we have substantially replaced them in all of these markets as the primary voice and broadband provider and in many cases the ONLY broadband provider. These wireline CLEC operations would be further harmed by the proposed restructuring of the ICC system, which as written in the NPRM does not clarify whether any access charge Recovery Mechanism would be available to rural CLEC's that rely on access charges for a significant portion of our cost recovery.

The wireless network operated by Mid-Rivers' subsidiary Cable & Communications Corporation (C&CC) covers approximately **10,000 square miles** of some of the most remote, sparsely-populated areas of the state. **The majority of this area was previously unserved by any wireless signal** and includes important state highway routes, oil and gas fields, and agricultural production areas. Throughout much of this area we provide the only wireless signal available for emergency 911 access. We are able to recover a portion of the cost of operating and expanding this wireless network today through the CETC USF support available as a result of the MPSC's granting of ETC status to C&CC in 2004. This support amounted to **less than $840,000 in 2010**, a very small amount compared to competitive support received by large

[4] Comments of John Staurulakis, Inc. (JSI), in NPRM referenced at *1*, Section III.A.

nationwide carriers, but again a critical source of capital and operating funds that is reinvested in our network in its entirety. **It is imperative to rural Montana consumers that the FCC addresses the issues of rural CLEC and wireless CETC cost recovery and rural CLEC access charge recovery in these reform plans.**

B. Alternative Reform Strategies for the Transition to Broadband Network Support

In addition to the specific impacts of the reform proposals addressed above, the NPRM proposes many other complex and concerning reforms which also seem to be focused primarily on shifting costs to rural end-users and shifting support away from the nation's highest-cost rural areas where it is needed most. Meanwhile, key issues that MUST be addressed, including reform of the USF contribution mechanism to allow the Fund to grow to a level needed to support ubiquitous broadband deployment, are ignored by the FCC.

Mid-Rivers firmly believes that the nation's universal service and broadband policy goals could be accomplished much more quickly and efficiently by **retaining the frameworks that have been SUCCESSFUL models for serving rural America, and simply modernizing and modifying them under a few basic principles.** A straightforward strategy that builds on the past success of the universal service program will be much more effective and less harmful to existing network providers than a complete overhaul utilizing untried and unproven approaches.

As JSI notes in their initial NPRM comments, "both telecommunications and information services are provided over one integrated network. Thus, there is not an old 'voice network' and a new 'information network.'"[5] It is logical to believe, then, that strategies that have worked so well for one technology on the network will be just as relevant for the new telecommunications technologies demanded by today's and tomorrow's consumers. Universal Service is a unique example of a public-private partnership that has WORKED to bring rural areas access to comparable voice services at comparable rates to those available in urban areas, and it can work again for broadband with the right basic modifications to **modernize USF and ICC and directly address the few real concerns with the existing system**.

[5] Comments of John Staurulakis, Inc. ("JSI") in NPRM referenced at *1*, submitted April 18, 2011, Page 2.

We outline below a set of basic reform principles supported by Mid-Rivers, many of which are also referenced by the Rural Independent Competitive Alliance (RICA) in their initial NPRM comments.[6]

1. Modernization of the USF Contribution Methodology

Multiple commenters including the State Members of the Federal-State Joint Board on Universal Service recommend “expanding the base of contributions to universal service” and cite that there are “reasons to increase the current size of the high-cost fund.”[7] As a first step before any changes are made to how USF is ***distributed*** to providers, the FCC MUST address the ***contribution*** side of the USF equation and **should NOT automatically assume that the overall size of the Fund cannot grow**. Arbitrarily imposing a hard “cap” on the overall fund at its existing level completely ignores the true cost of bringing ***comparable*** broadband services to an estimated 24 Million unserved Americans[8] at rates comparable to urban areas. The FCC has seemed unwilling to even consider reforming the contribution mechanism to date, but this is a simple concept that MUST be considered if America ever hopes to achieve the stated National Broadband Plan goal of ensuring every American has “access to broadband capability.”[9]

The existing contribution system based on the interstate revenues of phone companies **must be modernized for a broadband network environment**. It is important to note that USF is an “off-budget” item assessed to telecommunications providers and not included as part of the Federal budget. There is an **economic disconnect** today between the broadband cost-causers and those who pay to support the network. Application and content providers use the broadband transport facilities and the local broadband distribution plant of rural carriers, requiring us to provide high-quality, high-bandwidth, and therefore high-cost service, and **they profit substantially from our networks without contributing to their support**. The public interest requires contribution reform to ensure that the network cost-causers are contributing their fair share based on the value of these broadband connections to their operations.

[6] Comments of the Rural Independent Competitive Alliance (“RICA”) in NPRM referenced at *1*, submitted April 18, 2011.
[7] Comments of State Members of the Federal State Joint Board on Universal Service in NPRM referenced at 1, submitted May 2, 2011.
[8] NPRM Para. 5.
[9] “Connecting America: The National Broadband Plan.” FCC National Broadband Plan, Page XI.

In a recent advisement to federal rule makers in the energy industry, the Montana Public Service Commission advised that **"cost causers should pay"** when it comes to capacity concerns in the electricity system where variable energy resources are used. **Broadband bandwidth is a parallel example of a variable usage resource**, with demand fluctuating moment to moment but requiring that networks be built to handle demand "peaks." It is logical that broadband content and application providers generating large loads of traffic on the broadband network should bear the cost of keeping additional capacity resources available for the peak periods when their applications are stressing the network.

Reforming the distribution side of the equation without addressing the source and amount of the money coming in is not a logical approach. Those using and benefitting from the broadband network should be contributing to its support, rather than leaving the users of the legacy network to fully support an advanced network from which non-contributors are allowed to profit substantially. We MUST expand the USF contribution base to include all types of carriers that benefit from the network, to insure not only that the USF system is equitable and in the public interest, but also to **allow the Fund to grow to its full potential and support the true cost of deploying adequate broadband service to ALL Americans.**

2. Replacement of Identical Support with Cost-Based Support for Rural CLECs and CETCs

Of specific concern to Mid-Rivers is the FCC's near term proposal to phase out support for CETCs – which includes **support for both Wireless CETCs and CLECs** – over a five-year period. This radical change will have a **detrimental effect on the continued availability and expansion of wireless service in rural Montana, and on Mid-Rivers' ability to continue our facility build-out in our seven Montana CLEC exchanges.** Small, rural CETC's are a very small piece of the total CETC draw from the fund – a "rounding error" compared to the levels of support received by the non-rural CETCs – yet we depend very heavily on the support received to serve our rural consumers in high-cost areas. By example, the 2010 USAC Disbursement Reports showed that the total competitive support received in Montana was **less than half a percent** of all U.S. High Cost Support, and the competitive support received by Mid-Rivers (both wireline CLEC and wireless CETC) was **less than 0.04%** of all U.S. High Cost Support.

Rather than completely phasing out this critical support for rural carriers, we propose the ***replacement*** of Identical Support (the current practice of competitive and wireless carriers receiving USF support identical to what the Incumbent provider receives in the same geographic area) **with support based on each provider's own demonstrated costs** for all types of **rural** carriers including CLECs and Wireless CETCs. **Moss Adams LLP, RICA, the Rural Telecommunications Group (RTG), and Snake River PCS all propose similar approaches in their initial NPRM comments.** Moss Adams, an accounting and consulting firm for over 80 small and mid-sized carriers, asserts that both the Identical Support Rule and the current Interim cap on CETC support are unsound distribution methodologies that fail to effectively target USF where it is needed most, and suggest that the FCC "eliminate the Identical Support Rule and replace it with a support mechanism that is based on the Competitive Eligible Telecommunications Carrier's (CETC) actual costs."[10]

The FCC should also consider **waiver procedures for rural CETCs that can demonstrate a cost-based need to receive support beyond the Interim CETC cap**. This cap continues to limit our abilities to extend our wireless network into additional unserved areas of Montana and to add broadband capabilities to that network. To date the FCC has not acted to approve cost study guidelines for wireless networks. **Clear and timely methods for identifying each type of providers' actual costs through some form of wireless cost study or model**, and for providing support based on those costs, MUST be implemented.

In many cases actual wireless costs may be less than the incumbent's costs, resulting in reduced levels of support for wireless carriers. Additionally, **CETC support levels nationwide are already declining** due to the surrender of millions of dollars in support by large nationwide wireless carriers as a condition of recent mergers and acquisitions, and as a result of the Interim CETC Cap.[11] The CETC "drain" on the Fund is not the problem it was at the time the Interim Cap was implemented. The transition to a cost-based support mechanism for CETCs would lessen the CETC impact on the Fund even further, leaving the ability to continue providing vital support to competitive wireline and wireless carriers serving rural areas.

[10] Comments of Moss Adams LLP in NPRM referenced at *1*, submitted April 18, 2011, Page vi.

[11] Universal Service Administrative Company (USAC) High Cost Quarterly Program Statistics dated 2/2/11 show that **total CETC support has declined since 2008, and CETC disbursements were over $200 Million less in 4Q 2010 than originally projected.** See http://www.usac.org/about/universal-service/fund-facts/fund-facts-high-cost-quarterly-program-statistics.aspx.

Rural wireless carriers like Mid-Rivers' wireless subsidiary C&CC will simply not be able to continue providing the same or improved levels of service to residents of the extremely rural areas we serve without some form of support. C&CC operates primarily as a "fill-in" license holder, obtaining cellular licenses from the FCC to provide service in **locations where the original license holder did not build out**. Our wireless network effectively **fills in large geographic coverage gaps not served by any nationwide wireless provider**, bringing wireless coverage to rural communities, highway routes, oil and gas production fields, and agricultural producers, while the nationwide carriers serve only the Interstate highways and largest population centers. Without the wireless CETC support received by C&CC, huge geographic areas of Eastern and Central Montana would still be without basic access for making 911 calls and conducting business. **Rational, cost-based funding** must be available to rural wireless carriers to compensate for the high transport, site construction, and site maintenance costs associated with operating remote rural networks.

The 1996 Communications Act encouraged carriers to build facilities into underserved areas where services such as broadband were not being provided, with the understanding that support would be provided for these types of investments. Carriers like Mid-Rivers, accustomed to serving only extremely remote areas with declining populations, welcomed such opportunities to expand our customer base and made a long-term investment decision to build facilities into such areas. These long-term decisions were based in many respects on the continued receipt of the support afforded by the 1996 Act. **The FCC's proposal to now phase out all CETC support fails to recognize the level of investment carriers have made in these areas, and effectively punishes companies that succeeded in carrying out the wishes of Congress as directed by the 1996 Act.**

3. Clear and Expedient Access Charge Transition & Revenue Recovery Mechanisms for All Rural Carriers

All **rural** carriers – RLECs and rural CLECs – should have a transition mechanism that provides for recovery of investments incurred based on reliance on existing access charge revenues. The FCC recognizes in paragraphs 585-595 of the NPRM that when it initiates a proposed transition to reduce and phase out access charges, **additional cost recovery from a**

USF mechanism will be required by carriers in high cost areas that relied on access charges to recover a large portion of their costs.

The FCC's discussion of this issue, however, does not distinguish between ***RLEC reliance*** on access charges and ***rural CLEC reliance*** on this revenue source. The FCC explicitly recognizes in another section of the NPRM that the **rural CLEC access charge rule** was implemented to address recovery of high costs in area where rural CLECs serve:

> **"The Commission established an exemption for rural competitive LECs offering service in the same areas as non-rural incumbent LECs. This exemption permits rural competitive LECs to 'benchmark' to the access rates prescribed in the NECA [National Exchange Carrier Association] access tariff, assuming the highest rate band for local switching. This exemption was designed to recognize that a rural competitive LEC's costs would be higher than those of a non-rural price cap LEC that was required to geographically average its access rates across its entire study area."**[12]

Rural CLECs like Mid-Rivers who have committed to serving high-cost areas should have an opportunity to continue to recover revenues that we currently receive from rural CLEC access charges. Our rural CLEC is nearly as reliant on access charges as our RLEC operation, with ICC making up a significant portion of our CLEC revenue stream. The process for implementing these revenue recovery mechanisms has to be clear and expedient for **all** types of rural carriers **to ensure a smooth transition that will not shift an unbearable portion of network support costs onto the backs of rural consumers**.

4. Adoption of Universal Service Policy that Provides for Complementary Mobile and Fixed Broadband

The FCC recognizes in the NPRM that "ubiquitous mobile coverage must be a national priority."[13] Toward this end, USF support must be made available for both fixed and mobile broadband. Consumers demand both today, and in the future voice and video may simply be applications on either a high-capacity fixed or a mobile wireless broadband network. The

[12] NPRM Para. 650.
[13] NPRM Para. 241.

NPRM addresses this issue in Section 403, requesting further comment on proposals to support both fixed and mobile networks under the CAF, rather than funding only one provider in an area. It is in the best interests of Montana consumers to **support funding for one fixed and one mobile provider in each geographic area**. The FCC should adopt a universal service policy that recognizes the complementary, rather than competitive, nature of fixed and mobile services, and the need for rural consumers and rural economies to have access to both at speeds and rates comparable to urban areas.

The availability of ANY wireless service in rural high-cost areas of Montana, much less wireless 4G broadband availability, is at risk without some form of **both capital and continued operating support**. The operational and maintenance costs of rural wireless networks are substantial, due to the miles that must be traveled to get to tower sites, the increased costs for utilities and backhaul in remote areas, high fixed costs for on-going equipment and software upgrades, lease payments to landowners, and other expenses. The capital and operational costs of rural networks must be supported by a relatively small number of subscribers compared to non-rural networks. The one-time capital support proposed through the “Mobility Fund” in the NPRM, which again appears to be targeted at areas that will garner the most “bang for the buck” rather than the highest-cost rural areas most in need, will not be sufficient to sustain the level of wireless service available in rural Montana today, much less promote additional private investment in wireless broadband service.

C. Universal Service Concepts Must Be Preserved

The overall concept of Universal Service must not be lost in efforts to reform USF and ICC. What worked for voice can do the same for broadband, with minor changes to limit the incentive to over-invest or invest too rapidly. Rural consumers must not be relegated to second-class voice and broadband service, which is all that will remain available to them if legacy support mechanisms are stripped away without any comparable network support opportunities for rural carriers serving high-cost areas. The concept of Universal Service was founded on the fact that the number of connections in a network increases the value of that network exponentially, because the total number of people with whom each user can connect increases. Broadband connections in rural areas benefit not only the rural users who can connect to the rest of the world, but also the rest of the world because they can connect with that rural user.

The nationwide voice network was successful in reaching nearly every American because of the concept of Universal Service. Unfortunately, the FCC appears to be placing less emphasis on this concept, focusing instead on reaching the greatest number of users as quickly as possible with a finite amount of funding. **This strategy will move support dollars out of rural areas**, especially the highest-cost rural areas, into suburban and urban areas, without any recognition of the fact that legacy support received in rural areas today supports the on-going sustainability of rural carrier operations and network build-outs. ALL rural providers in high-cost areas – RLECs, CLECs, and Wireless ETCs – could potentially lose a significant majority of the revenues they use to operate today, with no other choice than to recover those costs through subscriber rate increases which will place further strain on the business case for providing service in rural areas.

The FCC must resist the notion in its USF and ICC transition reform planning that satellite service is "the answer" in the nation's highest-cost rural areas. The FCC proposes in the NPRM four specific priorities for high-cost reform, the second of which is "to ensure universal deployment of modern networks capable of supporting necessary broadband applications as well as voice service," stating that "This priority is directly tied to high-level goals for universal service reform—to ensure that all Americans in all parts of the nation, including those in rural, insular, and high-cost areas, have access to modern communications networks capable of supporting the necessary applications that empower them to learn, work, prosper and innovate."[14] However, in its desire to restrict or reduce the size of the Fund, the FCC has in other sections of the NPRM proposed that satellite service may be "ideally suited for serving housing units that are the most expensive to reach via terrestrial technologies, because there is little marginal cost to add a subscriber, assuming capacity is available."[15] This dangerous idea could shift support for voice and broadband from terrestrial carriers with Carrier of Last Resort (COLR) and ETC service quality obligations toward lower-performing satellite networks without the technical ability to provide comparable voice and broadband services.

[14] NPRM Para. 80.
[15] NPRM Para. 133.

D. Rejection of Reverse Auctions and other Market-Based Distribution Methodologies

Should the FCC proceed with its complex proposals to award CAF support through the use of **reverse auctions and other "market-based" approaches** as proposed by the NPRM, we are very concerned that **such approaches heavily favor the largest carriers rather than those with a demonstrated commitment to serve** these uneconomic areas. Any such quantitative methodologies that may be implemented MUST also account for a range of **qualitative factors,** including service quality, 911 obligations, proven commitment to serve the most rural areas rather than only the population centers, and others in addition to the cost to provide service. The NPRM's proposed concept of a "procurement auction" for Phase I CAF implementation[16] is extremely concerning for a number of reasons in addition to the use of a reverse auction methodology and is another overly complex and untested approach that should be rejected.

It is also concerning that the NPRM in its discussion of market mechanisms proposes to offer only the Incumbent LEC (ILEC) in an area the "right of first refusal" for CAF support prior to initiating an auction. It is in the best interests of a wide cross-section of Montana consumers that **whatever carrier that has made the commitment to provide broadband services in an area**, whether that is the ILEC or a competitive provider, **be offered this right**. Defaulting support to the ILEC in many Montana communities would mean **continuing to support a provider that has received USF without investing in network upgrades for the provision of advanced services, presumably because they have had no incentive to do so as a Price Cap carrier**, while at the same time eliminating support for the competing carrier that IS providing broadband service. This situation is clearly at odds with the FCC's stated "market-driven objectives" as well as the overall goal of promoting and sustaining broadband deployment in these areas. **State Commissions should be granted the authority in such situations to designate which ETCs are entitled to continuing support**, and should be allowed to designate either the ILEC or an existing CETC based on their local knowledge of the unique situations present in each state.

Mid-Rivers is also very concerned with the FCC's plans to utilize the National Broadband Map for determining the unserved areas to be auctioned during Phase I of the CAF implementation in 2012.[17] It has been our experience that this map is being created using data

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[16] NPRM Para. 24.
[17] NPRM Para. 24.

provided by carriers, with little or no independent review to verify the data submitted. Broadband coverage as mapped for Eastern Montana appears to be both understated and grossly overstated depending on the carrier and the technology reviewed. While Mid-Rivers has spent countless hours working with Montana's Broadband Mapping programs in an attempt to accurately depict our own coverage, the process has been difficult and the results inaccurate due to the requirement that coverage be reported on a Census Block level. Broadband networks, whether wireline or wireless, simply do not align with Census Block boundaries, especially in a very rural state like Montana where Census Blocks range in size from less than one to over 200 square miles. Ample time must be allowed to verify the data depicted in this map before it is used to award **$500 Million to $1 Billion** from the current Universal Service Fund.

E. Carriers Must Have Sustainability and Predictability

As rural utility companies with **COLR and ETC obligations**, we take on **arduous public responsibilities the likes of which are present in very few other private industries**. In return, we must be afforded some level of predictability and sufficiency in our support, and such predictability is very much in the public interest for our rural consumers. The long-term investment decisions Mid-Rivers has made in all our RLEC, CLEC and CETC operations were based in large part on the availability of the support provided by the 1996 Act. Phasing out all CLEC and Wireless CETC support unnecessarily undermines the network build-out progress that has been accomplished in rural areas since the 1996 Act.

Mid-Rivers has invested millions in telecommunications plant, but the plant we have in service today is almost fully depreciated. Much of the very rural portion of these facilities is incapable of carrying a broadband signal due to the distances involved with serving a large rural geographic area. We are in the beginning stages of upgrading these most rural portions of our plant to meet basic service obligations to our customers, **focusing on the replacement of facilities that in many cases may no longer be capable of providing quality voice services much less carrying a broadband signal.** Meanwhile, our service area continues to have many other challenging needs that must be met, including but not limited to the extension of broadband to unserved customers, wireless services to remaining unserved geographic areas, the addition of advanced service capabilities including mobile broadband to our wireless network, and ETC build-out obligations in CLEC exchanges. **We must have predictability and sustainability in our revenue streams** before we can obtain the necessary financing, sign multi-million dollar equipment contracts, or hire the additional personnel necessary to take on these projects to meet the needs of our customers.

Rural cooperatives have made great strides in broadband and wireless deployment despite monumental challenges of low density and large distances. As we have demonstrated for many years, **the additional work that needs to be completed in the deployment of broadband to rural consumers can be completed much more efficiently and effectively by the carriers with existing operations, established networks, and a proven commitment to serving frontier areas of the U.S., whether as an RLEC, CLEC or Wireless ETC.** As stated by Moss Adams LLP in their initial NPRM comments, it is the rural telecommunications carriers that provide universal service in rural America that "are best suited to accomplish the goals of the National Broadband Plan in those same areas."[18]

RESPECTFULLY SUBMITTED,

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[18] Comments of Moss Adams LLP in NPRM referenced at *1*, submitted April 18, 2011, Page v.